

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

ReneeDeLiva Palacios Plaintiff(s)

vs.

Unknown Named Officers from
NATIONAL CITY POLICE DEPT.

Defendant(s)

2254	1983
FILING FEE PAID	
Yes	No
H/P MOTION FILED	
Yes	No
COPIES SENT TO	
Court	Prude

2007 NOV -5 PM 3:27

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RM

DEPUTY

BY INMATE
CIVIL
RIGHTS
COMPLAINT
PURSUANT TO
42 U.S.C. § 1983

'07 CV 2115 JAH CAB

Plaintiff(s) in the above-captioned action, allege(s) as follows:

JURISDICTION

1. This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) and 2201.

PARTIES

2. Plaintiff: Rene De Liva Palacios#03562-298
 Address: Federal Correctional Institution
Post Office Box 725
Edgefield, South Carolina 29824

Additional Plaintiffs may be added on a separate sheet of paper.

3. a. Defendant: UNKNOWN NAMED OFFICERS
 Official Position: Police Officers
 Address: National City Police Department/CALIFORNIA
1200 National City Blvd
National City, California 91950

NATIONAL CITY POLICE DEPARTMENT

b. Defendant: UNKNOWN NAMED POLICE CAININE

Official Position: Police Dog-Specialized Unit

Address: 1200 National City Blvd.

National City, California 91950

c. Defendant: N/A

Official Position: ---

Address: -----

Additional Defendants may be added on a separate sheet of paper.

4.

PLACE OF PRESENT CONFINEMENT

a. Is there a prisoner grievance procedure at this facility?

Yes No

But it is not applicable in this case.

b. If your answer to 4(a) is YES, did you present the facts relating to your complaint in this grievance program?

Yes No

If your answer to 4(b) is YES:

(i) What steps did you take?

The prison (Federal Buereau of Prisons) grievance program
is ONLY for B.O.P. claims or injuries.

(ii) What was the final result of your grievance?

N/A

If your answer to 4(b) is NO:

Why did you choose to not present the facts relating to your complaint in the prison's grievance program?

The facts relating to my case were presented to the Prison medical department upon initial interview and examination. There appears on my person physical scars, and there are nerves that have been damaged.

- c. If there is no grievance procedure in your institution, did you complain to prison authorities about the facts alleged in your complaint?

() Yes N/A () No

If your answer to 4(c) is YES:

- (i) What steps did you take?

N/A

- (ii) What was the final result regarding your complaint?

N/A

If your answer to 4(c) is NO:

Why did you choose to not complain about the facts relating to your complaint in such prison?

The facts as they pertain to the FCI Edgefield, have been reported to the medical department, and plaintiff is currently in follow-up medical care and signing up for sick-call, when needed.

5.

PREVIOUS LAWSUITS

- a. Have you ever filed any other lawsuits in any state and federal court relating to your imprisonment?

() Yes (X) No

- b. If your answer to 5(a) is YES you must describe any and all lawsuits, currently pending or closed, in the space provided on the next page.

N/A

For **EACH** such lawsuit, provide the following information:

i. Parties to previous lawsuit:

Plaintiffs:

N/A

Defendants:

ii. Court (if federal court, name District; if state court, name County):

N/A

iii. Docket number: N/A

iv. Name of Judge to whom case was assigned:

N/A

v. Disposition (dismissed? on appeal? still pending?)

N/A

vi. Approximate date of filing prior lawsuit:

N/A

vii. Approximate date of disposition:

N/A

6.

FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary.)

The facts of this case which will substantiate the claims set forth in this complaint, establishing a violation of Constitutional Rights, are set out on ATTACHED/ADDITIONAL SHEET.....

****See previous page...Attached/Additional Sheet****

7.

CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

Cause of Action be asserted by Plaintiff is a Contstitutional violation of the Eighth Amendment, which protects plaintiff from cruel and unusual punishment/excessive force. The act perpetrated on plaintiff and the injuries he has suffered as a result of the dog bites clearly support excessive force being used on the part of the National City Police Dept.

SECOND CAUSE OF ACTION

Following the aforementioned, the second cause of action is the plaintiff's constitutional violation of Due Process which is gaurnteed to him by the fifth amendment. Plaintiff requested and insissted that a complaint be filed with the Office of Professional Standards for what happened to him, but instead he was threatened and intimidated by officers.

THIRD CAUSE OF ACTION

The final casue of action is that the plaintiff was not treated according to decent medical standards and practices in violation of human rights, due to the medical neglect while in police custody. At the National City Police Station, police officer's were more interested in plaintiff not filing a complaint, rather than tending to his blood soaked bandages, and treating the plaintiff for pain reported.

ATTACHED/ADDITIONAL SHEET

Under penalty of perjury, the following is true and correct to best of my knowledge...On April 15, 2007, I, Rene De Liva-Palacios, was walking down Highland Street(aroung 14th and 16th)(The cause of this action and the following takes place in National City, California) and I was minding my own buisness when a National City Police Dept. squad car pulled along side me, and an Officer called out to me.

I knew that I had an arrest warrant out on me, and after I promised my children that I would not return to jail, I ran. Even-though I had no illegal contraband, nor weapon, I fled. After a brief chase, I arrived around 16th and I was three(3) police cars, and an officer yelled out to me, and he said,"get on the ground, or we're gonna let the dog loose on you!"

I immediately stopped and through myself on the ground, face down. I was on the ground, assuming the position, I had followed the orders given, my hadns were showing palms, and I was no threat...When out of nowhere, the Police Officers let the dog loose(or the dog escaped the control of the officer)and the police dog began to savagely attack me.

The dog attacked me and bit me numerous times on my left leg. The police officers struggled to get the dog off of me, but once they did-they saw I was bleeding profusely, so the called an ambulance. The abmulance took me to "Paradise Valle Hospital." Arriving at the hospital emergency room, I was treated to stop the bleeding, close the wounds, and was given numerous shots.

Under heavy pain medication, an officer came to visit me in the hospital, to interrogate me about why I ran if I had nothing on me, he apologized to me about the dog. I was transferred then to the National City Police Station, where I was interrogated more about if I wanted to file a complaint about what happened(but one officer threatened me about doing so), and I told them"Yes, I do, because what they did was wrong."

I was finally transferred to the detention center in San Diego, and there they still treated my injuries, changing my bandages daily and providing me with pain medication. I signed up to see the psych. department about what happened and how I felt I was affected, but then I was transferred to Edgefield, South Carolina.

8. Plaintiff(s) demand(s) a trial by

Jury -or- Court

(Circle only one).

9. PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

I seek for pain and suffering, and the violation of my Constitutional Rights, the monetary compensation of: \$3, 500,000.00 (3.5million dollars). I also seek the dismissal from the National City Police Department of the Police Officers involved, as well as the Police Cainine/Dog involved.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: October 31, 2007


Signature of Plaintiff(s)
(all Plaintiffs must sign)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Rene De Liva Palacios

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

2254	1983
DEFENDANTS	
FILING FEE PAID	
Yes	No
HPP MOTION FILED	
Yes	No
COPIES SENT TO:	
Court	Plaintiff

Unknown Named Officers

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
ATTORNEYS (IF KNOWN)

Rene De Liva Palacios
PO Box 725
Edgefiled, SC 29824
Reg# 03562-298

'07CV 2115 JAH CAB

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- U.S. Government Plaintiff 3 Federal Question
(U.S. Government Not a Party)
- 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT
(For Diversity Cases Only))

- | | | | | |
|---|-----------------------------|------------------------------|----------------------------|------------------------------|
| Citizen of This State | <input type="checkbox"/> PT | <input type="checkbox"/> DEF | <input type="checkbox"/> P | <input type="checkbox"/> DEF |
| Citizen of Another State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> SOCIAL SECURITY	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 861 HIA (13958)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 863 DIWC/DIWV (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> REAL PROPERTY	<input type="checkbox"/> CIVIL RIGHTS		<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> FEDERAL TAX SUITS	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 990 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property				

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding 2 Removal from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE

November 5, 2007

SIGNATURE OF ATTORNEY OF RECORD

R. Melleh